

REMARKS/ARGUMENTS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claim 32 has been rejected under 35 U.S.C. § 102 as being anticipated Aron et al. and Claims 16-31 have been rejected under 35 U.S.C. § 103 as being unpatentable over Aron et al. in view of Hastings and Andersen and Stevens. Claim 32 has been canceled, without prejudice and thus, Claims 16-31 remain active.

As the Examiner will recall, the present invention is characterized by providing structure which overcomes a serious deficiency of known machines which have latches which are situated on the frame which are hooked onto carrying arms closed to the axes of articulation on the frames. These latches then connect the carrying arms to the frame but, when the machine travels over uneven ground, they are subject to intense stresses due to the forces exerted on them by the carrying arms with considerable lever arms. These latches therefore have to be particularly strong which makes them bulky and difficult to maneuver. In addition, they suffer heavy wear which can compromise safety during travel. Accordingly, an object of the present invention is to provide latching means for the carrying arms for the rotors themselves which connect the carrying arms together and lock them in a transport position in a safe and effective manner such that a nearly rigid connection is obtained between the frame and the carrying arms during transport.

With regard to the rejection of Claim 32 under 35 U.S.C. § 102 as being anticipated by Aron, Applicants note that such claim has now been canceled, without prejudice.

As for the rejection of Claims 16-31 under 35 U.S.C. § 103 as being unpatentable over Aron et al. in view of Hastings and Andersen and Stevens, it is noted, as the Examiner has explained, that each of the secondary references of Hastings, Andersen and Stevens is cited as teaching providing implement carrying arms that are capable of carrying rotors. It is

for this reason that Aron has been cited as teaching the provision of a frame having first and second carrying arms 15, 16 capable of being moved into transport/working positions and a latching mechanism 38 capable of latching the two arms together. It is noted in this regard, however, that the carrying arms 15, 16 clearly differ from the carrying arms claimed in the present invention or, for that matter, differ significantly from the carrying arms shown in Hastings, Andersen and Stevens. More particularly, the only carrying arm or frame shown in Aron is the frame member 3 above which the articulating arm 15 and 16 are mounted by a separate structural element 14 upon which the arms 15, 16 are mounted.

Furthermore, the articulating arms 15, 16 do not teach or suggesting carrying arms on each of which one of a pair of wind rowing rotors is mounted. Instead, the only implement carried arms 15, 16 are deflectors 21 mounted on lateral part 16 of the protective device 13 such that an opposite lateral part 15 of the protected device is connectable thereto via latching mechanism 38 and arm 30 so as to interconnect these structural elements. However, as can be appreciated from a review of Figure 8 of Aron et al., neither lateral part 16 nor lateral part 15 are capable of carrying a wind rowing rotor and instead only frame member 3 is capable of doing so but such is not disclosed as being foldable in any direction and, moreover, only comprises a single wind rowing member. It can thus be appreciated that there is no teaching or disclosure in Aron et al. or any of the other remaining references of the capability of modifying Aron et al. so as to support a pair of wind rowing rotors respectably about first and second carrying arms that can latched together in the manner claimed in Claim 16. As is clearly recognized in U.S. patent law, there must be a basis in the art for combining or modifying references<sup>1</sup>.

Moreover, it is understood that if one of ordinary skill in the art were to attempt a task significantly heavy wind rowing machine to the structure shown in Aron et al., it would

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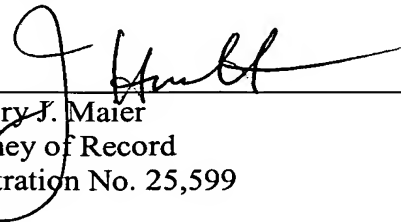
<sup>1</sup> ACS Hospital Systems, Inc. v. Montefiore Hospital, 732 F.2d 1572, 1577, 221 USPQ 929, 933 (Fed. Cir. 1984).

destroy Aron et al. for its intended function and thus be contrary to the holding of In re Gordon that references are not properly combinable or modifiable if their intended function is destroyed.<sup>2</sup> It is further noted that none of the above-noted references teaches or discloses the recognition of the problem overcome by the present invention and this attempted combination of references is thus contrary to the holding of the Court of Appeals for the Federal Circuit in, for example, In re Peahs, 612 F.2d 1287, 204 USPQ 835 (CCPA 1980). It is further submitted that the prior art teaches away from the present invention by demonstrating that heavy structural elements such as windrowing elements must be supported directly to the base frame and not be interconnected to one another, unlike Applicants' claimed invention.

In view of the foregoing, it is submitted that the references cited by the Examiner are not obviously combinable and that therefore Claim 16 as well as all claims dependent therefrom, merit indication of allowability. It is further submitted that each of the claims dependent from Claim 16 contain additional structural elements having no corresponding teaching or disclosure in the prior art. It is therefore submitted that each of such dependent claims also merit indication of allowability with the same being hereby respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.



Gregory J. Maier  
Attorney of Record  
Registration No. 25,599

Customer Number  
**22850**

Tel: (703) 413-3000  
Fax: (703) 413 -2220  
(OSMMN 06/04)

James D. Hamilton  
Registration No. 28,421

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<sup>2</sup> In re Gordon, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984)